

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

WALTER LEE ADAMS,

Appellant.

No. 37502-8-II

UNPUBLISHED OPINION

Bridgewater, J. — Walter Lee Adams appeals his Skamania County conviction of first degree malicious mischief. He claims that, (1) the trial court erred when it admitted a lay opinion to prove damages; (2) the lay testimony included inadmissible hearsay; (3) trial counsel provided inadequate representation because he did not object to the damage testimony on the proper grounds; and (4) the evidence was, in any case, insufficient to establish the amount of damages. We affirm.

FACTS

Rhonda Yapp testified that Adams appeared at her front door on the morning of September 24, 2007. She did not answer his knock because she was not dressed, and he walked

around the house, peering in windows and rattling door handles. When he got to the french doors accessing her dining room, he rattled the handle, then repeatedly threw his body against the door until it flew open. Yapp screamed at him, and he fled. Using her cell phone, Yapp took a picture of the license plate on Adams's pickup truck as he drove away, and then she called the police.

Skamania County Sheriff's Deputy Michael Hepner responded. He took a picture of the broken door and described it for the jury, telling them that a piece of the wood trim on the door was broken off, and the framing on the sides was "bulged out" and broken. RP at 49. Yapp testified that it would cost \$2,500 to replace the door. She explained that the amount was based upon an estimate from Parr Lumber, a company that her husband was familiar with because he was in the business of building homes.

ANALYSIS

Adams's challenge to Yapp's damage testimony on the basis of her lack of expertise is clearly meritless. It is longstanding and well-established law that the owner is always qualified to testify as to the value of his or her property. No further qualification is necessary. *McCurdy v. Union Pac. R.R.*, 68 Wn.2d 457, 413 P.2d 617 (1966); *Cunningham v. Town of Tieton*, 60 Wn.2d 434, 436-37, 374 P.2d 375 (1962)¹; *State v. Hammond*, 6 Wn. App. 459, 493 P.2d 1249 (1972); *State v. Toliver*, 5 Wn. App. 321, 328, 487 P.2d 264 (1971).

Adams also contends that Yapp's testimony was inadmissible because it was based on hearsay. In fact, the courts of this state recognized more than 80 years ago that an owner's knowledge about the value of his property comes from many sources, including inquiries and

¹ In a criminal case, the value of an item is proven in the same manner as in a civil case. *State v. Riley*, 34 Wn. App. 529, 535, 663 P.2d 145 (1983).

comparisons. The sources of the owner's knowledge can affect the weight, but not the admissibility of the testimony. See *Wicklund v. Allraum*, 122 Wash. 546, 547-48, 211 P. 760 (1922); see also *McInnis & Co. v. W. Tractor & Equip. Co.* 67 Wn.2d 965, 968-69, 410 P.2d 908 (1966); *Robinson v. Watts Detective Agency, Inc.*, 685 F.2d 729, 739 (1st Cir. 1982), *cert. denied*, 459 U.S. 1105, 459 U.S. 1204 (1983); and *LaCombe v. A-T-O, Inc.*, 679 F.2d 431, 435 (5th Cir. 1982).

Based on our disposition of the first two arguments, Adams's claim that trial counsel was ineffective also fails. He must demonstrate that (1) counsel's representation fell below an objective standard of reasonableness, and (2) he was prejudiced by the deficient performance. *Strickland v. Washington*, 466 U.S. 668, 669, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984). As Yapp's testimony was admissible, Adams can show neither error by counsel, nor prejudice.

Finally, Adams contends that even if admissible, Yapp's testimony was not sufficient to establish the amount of damage, and thus support a conviction of first degree malicious mischief. A conviction in the first degree requires property damage in an amount exceeding \$1,500. RCW 9A.48.070(1)(a). Evidence is sufficient to support a conviction if, viewed in the light most favorable to the prosecution it permits any rational trier of fact to find the essential elements of the crime beyond a reasonable doubt. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992).

The jury had seen a photograph of the damaged door, and they had heard Officer Hepner's testimony describing the damage. They could reasonably find that the door would need to be replaced. Yapp provided a replacement figure, \$2,500, based on an oral estimate from Parr Lumber. She explained that her husband was a builder, and they considered Parr Lumber to be a

reputable company. The weight to be given her testimony was exclusively the province of the jury. *Cunningham*, 60 Wn.2d at 436. They found it probative.

Affirmed.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

Bridgewater, J.

We concur:

Quinn-Brintnall, J.

Van Deren, C.J.